

August 18, 2020

CLARENCE-ROCKLAND/NATION
JOINT WATER SYSTEM
AGREEMENT

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This Agreement dated this ____ day of _____, 2020 (the “**Commencement Date**”)

BETWEEN:

THE CORPORATION OF THE CITY OF CLARENCE-ROCKLAND

(hereinafter called the “**The City**”)

-and-

THE CORPORATION OF THE NATION MUNICIPALITY

(hereinafter called “**The Nation**”)

WHEREAS The City and The Nation have agreed to enter into an Agreement to provide for the allocation and management of a new joint water system to meet immediate and projected water demands in both municipalities;

AND WHEREAS The City and The Nation have the authority to enter into a Water Supply Agreement (“Agreement”) as the term is further defined below) pursuant to sections 19 and 20 of the *Municipal Act*, 2001, S.O. 2001, c. 25;

AND WHEREAS The City and The Nation have agreed to enter into such Agreement;

NOW THEREFORE, in consideration of the terms and conditions and mutual covenants hereinafter contained, the Parties hereto agree as follows:

1. DEFINITIONS:

1. In this Agreement:

- a) “**Agreement**” shall mean this Agreement as executed by the Parties hereto, together with the Schedules to this Agreement and all amendments hereto;

- b) “**Average Day Demand**” means the average of the cubic meters of Water (as defined below) supplied in each twenty-four (24) hour period over a one (1) year period;
- c) “**Billing Period**” has the meaning given to it at subsection 4.7 hereto;
- d) “**Bulk Rate**” is the rate charged to The Nation for Water (as defined below) by reference to the Operating Costs (as defined below);
- e) “**Business Day**” means any day, other than a day that is a Saturday, a Sunday, a statutory holiday in Ontario or a day on which banks generally are not open to the public for business in Ontario;
- f) “**Calendar Year**” means a one-year period that begins on January 1 and ends on December 31;
- g) “**Capacity Allocation**” means the percentage of total Water production and total transmission capacity of the Joint Water System (as defined below) allocated between the Parties to this Agreement as further specified in the capacity column at **Schedule B** hereto;
- h) “**Capital Investments**” means the financial investment required to realize the infrastructure improvements for the Joint Water System;
- i) “**Cheney and Limoges Transmission Line**” means the water transmission line described at **Schedule A** hereto;
- j) “**Commencement Date**” means the date first written at page 1 of this Agreement, being _____, 2020;
- k) “**Estimated Charge**” has the meaning given to it at subsection 4.11;
- l) “**Initial Term**” has the meaning given to it at subsection 2.a);
- m) “**Joint Metering Station**” means the flow metering station for the Joint Water System;
- n) “**Joint Water System**” means the water treatment and delivery system, and associated infrastructure described at **Schedule A** hereto;
- o) “**Loss**” and “**Losses**” means any and all damages, fines, fees, penalties, deficiencies, liabilities, losses and expenses, including without limitation, interest, reasonable expenses of investigation, court costs, reasonable fees and expenses of

attorneys, accountants and other experts or other expenses of litigation or other proceedings or of any claim, including a claim for injury to or death of a person, including employees of either party or loss of or damage to property, default or assessment (such fees and expenses to include, without limitation, all fees and expenses, including, without limitation, fees and expenses of legal representation, incurred in connection with the investigation or defence of any third party claims);

- p) “**Management Committee**” has the meaning given to it at Section 3;
- q) “**Maximum Pressure**” has the meaning given to it at **Schedule D** hereto;
- r) “**Maximum Day Demand**” means the single highest twenty-four (24) hour daily Water supply expressed in cubic meters occurring in a Calendar Year as specified in **Schedule B** hereto;
- s) “**Minimum Pressure**” has the meaning given to it at **Schedule D** hereto;
- t) “**Municipal Act**” means the *Municipal Act*, 2001, S.O. 2001, c. 25 including the regulations made pursuant to that *Act*, and any statute or regulations that are applicable to municipal corporations or local boards as may be substituted, as amended from time to time;
- u) “**The Nation**” means The Corporation of the Nation Municipality;
- v) “**Operating Costs**” means the actual costs as confirmed by an audit completed by professional auditors as agreed to by the parties for the items specified at **Schedule F** hereto for the production, maintenance and delivery of Water;
- w) “**Parties**” means The Corporation of the City of Clarence-Rockland and The Corporation of the Nation Municipality, and “**Party**” means either one of them;
- x) “**Pressure**” means Minimum Pressure and/or Maximum Pressure as the context requires;
- y) “**Projected Average Day Demand**” means the total volume of Water produced from all sources to meet existing and future Water demands;
- z) “**Projected Maximum Day Demand**” is the result of multiplying the Projected Average Day Demand by a peaking factor specified in section 3.4.2- Domestic Water Demands of the Ministry of Environment Design Guidelines for Drinking Water Systems, as amended;

- aa) “**Quality**” means the quality of the Water supplied by The City to The Nation as specified at **Schedule D** hereto;
- bb) “**Quantity**” means:
 - i. the volume, in cubic meters, of Water per day calculated over one (1) Calendar Year; and
 - ii. a daily maximum cubic meters of Water per day on any day in such Calendar Year;
- cc) “**SCADA**” means supervisory control and data acquisition system;
- dd) “**The City**” means The Corporation of the City of Clarence-Rockland;
- ee) “**Thirty (30) Year Average Day Demand**” means the Average Day Demand that occurs in the 30th year following the date of the commencement of supply of Water pursuant to the terms of this Agreement.;
- ff) “**Thirty (30) Year Maximum Day Demand**” means the Maximum Day Demand that occurs in the 30th year following the date of the commencement of supply of Water pursuant to the terms of this Agreement.
- gg) “**Uncontrollable Circumstance**” is defined in paragraph 12.2 below;
- hh) “**Water**” means potable water that meets or exceeds the standards prescribed by applicable Provincial or Federal legislation and regulation in force from time to time.

2. TERM

- a) The term of this Agreement shall be for an initial period of Twenty (20) years commencing on the date of this Agreement and ending on _____, 2040 (the “**Initial Term**”).
- b) Provided The Nation has otherwise observed and performed all of its terms, covenants and conditions as set out in this Agreement and is not then in default, the City shall grant to The Nation the right to extend the Term from the completion of the original Term for one (1) further and consecutive extension term of Twenty (20) years (the “**First Extension Term**”) followed by one (1) second and consecutive extension term of Ten (10) years (the “**Second Extension Term**”) subject to the following additional terms and conditions:

- i. The Nation shall give to The City written notice exercising its option to extend the Term not less than Two Years prior to the date of completion of the Initial Term or First Extension Term, as the case may be.
 - ii. The exercise of The Nation's option to extend the Initial Term is the sole responsibility of The Nation and The Nation hereby acknowledges and agrees that nothing in this Agreement obligates or requires The City to advise or otherwise notify The Nation with respect to extension of the Initial Term.
 - iii. Any extension term shall be based on the same terms and conditions as contained in this Agreement except:
 - a) there shall be no further right of extension after completion of the Second Extension Term;
 - b) the Bulk Rate for the First Extension Term or Second Extension Term, as the case may be, shall be determined by reference to the then applicable Operating Costs as at the date of the First Extension Term or Second Extension Term.
- c) Provided The Nation has given The City proper written notice exercising its option to extend the Term or First Extension Term as required above and if the Parties do not agree in writing to the Bulk Rate for the First Extension Term or Second Extension Term on or before the date Three Hundred and Sixty-Five (365) Days prior to the date of completion of the Term or First Extension Term, then the Bulk Rate for the First Extension Term or Second Extension Term shall be determined by arbitration. The arbitrator shall make its determination in accordance with following additional terms and conditions:
- i. The Bulk Rate for the First Extension Term and/or Second Extension Term, as the case may be, shall be determined by reference to the actual Operating Cost at the day of extension.
 - ii. The decision of the arbitrator shall be final and binding upon the Parties only with respect to the determination of the Bulk Rate for the First Extension Term or Second Extension Term. All other matters for the First Extension Term or Second Extension Term shall be determined in accordance with the terms and conditions otherwise set out herein.

3. JOINT MANAGEMENT COMMITTEE

1. The Parties hereto agree that forthwith upon execution of this Agreement, they shall form and constitute a management committee (the "**Management Committee**") which terms of reference are as set out in Schedule "H".

4. BULK RATE, COST SHARING, ALLOCATION OF CAPACITY AND INVOICING

1. Water Management and Conservation Best Practices

The Parties recognize the importance of water conservation and shall use all reasonable efforts to instill good demand management practices for their respective water users to minimize capital expenditures for capacity increases for the Joint Water System.

2. Allocation of Existing Capacity

The City agrees that it shall deliver no less than **350 m³ Water per day** to The Nation through the Joint Water System.

3. INTENTIONALLY DELETED

4. Bulk Rate for Water

The Parties agree that the Bulk Rate payable by The Nation for the first twelve (12) months of the Initial Term shall be \$1.28m³ of Water at the date of signing this Agreement. In subsequent twelve (12) month periods, the Parties agree that the Bulk Rate payable for Water by the Nation shall be determined by reference by the Operating Costs and shall be subject to annual adjustment, up or down, as the case may be.

5. Agreement to Purchase Water

Subject to The City complying with its Water delivery obligations specified pursuant to subsection 4.2 above and its Quality obligations specified pursuant to subsection 6.5 below and all other obligations herein, The Nation agrees to purchase no less than 350 m³ Water per day at the Bulk Rate for the term of this Agreement including any renewals.

6. Cost Sharing Approach

- a) Maximum Day Demand (m³/d, (cubic metres per day)) has been used by the Parties hereto to allocate the capacity of the Joint Water System between themselves as further specified at **Schedule B** hereto, being Column B – Allocated Demand (MDD) and Column C - Capacity Allocation (%).
- b) The Parties further acknowledge and agree that the allocation of capacity of the Joint Water System specified at **Schedule B** hereto has been determined by reference to projected population growth estimates which will be updated from time to time and which may result in amendments to allocation for each of the Parties, unless otherwise amended by the Joint Management Committee and adopted by The City and The Nation.

7. Invoicing

The City shall invoice The Nation the Bulk Rate on a quarterly basis corresponding with four (4) separate billing periods of approximately ninety (90) days (each such quarterly period, a “**Billing Period**”).

8. What an Invoice Must Contain

Each invoice supplied to The Nation by The City shall contain the elements set out at **Schedule E** hereto.

10. Invoicing Dispute

In the event of a dispute in respect of invoicing, The City and The Nation each agree, if they cannot resolve it between themselves within Thirty (30) Days after the dispute arises, they will submit the dispute to arbitration in accordance with Schedule “G”.

11. Metering Malfunction

In the event that a meter at any time fails to accurately measure the volume of Water or that the flow data is lost or erroneous resulting in the Parties inability to determine the Bulk Charge for the Billing Period, then the Parties agree that a determination of the volume of Water supplied during the time that the meter was not functioning, for the purposes of determining the Bulk Charge payable, shall be based upon the average volume as shown by the meter when operating in accordance with manufacturers standards during a comparable period of service (the “**Estimated Charge**”).

5. CAPITAL COST SHARING FOR JOINT WATER SYSTEM

1. Subject to subsection 5.2 below, the Parties acknowledge and agree that they shall share the Capital Investments made to the Joint Water System in the proportions provided for in column D - Cost Share (%) column as specified at **Schedule C** hereto.
2. In the event that a party’s growth is fifty percent (50%) or lower than the five-year growth projections for such party provided for in Column A of **Schedule C** hereto as amended and updated from time to time, then such party shall have the right to suspend its obligation to contribute its proportionate share of the Capital Investment.
3. Subject to subsection 5.2 above, the Parties agree that their joint obligation to share proportionally in the costs by reference to Column D - Cost Share (%) specified at **Schedule C** hereto for Capital Investments in the Joint Water System will arise when growth projections for one or both Parties reach a Water demand Trigger (ADD) specified in Column C of **Schedule C** hereto. In the event that both Parties are deemed to have reached a Water demand Trigger (ADD), the Joint Management

Committee shall name the project proponent for the Capital Investments to be made to the Joint Water System.

4. The party deemed to reach a Projected Average Day Demand by reference to Column C - Water demand Trigger (ADD) at **Schedule C** hereto shall be deemed to be the proponent of the project for the Capital Investments to the Joint Water System and as such shall the party responsible for arranging the necessary financing and interest payments payable thereon to support the project provided that such funding obligation plus interest thereon shall in no event exceed a term of two (2) years without the consent of the other party.

6. THE CITY'S OBLIGATIONS

1. In consideration of The Nation paying the sum of \$2,620,000 and designing, constructing and installing the necessary infrastructure to purchase Water from The City, the Parties agree that The Nation will be provided Water through the Joint Water System in the same manner as service to The City inhabitants and other direct service customers of The City. The City shall have the right to participate in The Nation's construction inspections to ensure that the Joint Water System has been properly constructed in accordance with the approved design.
2. In the event of a reduction or restriction on the Quantity of Water delivered, The City agrees that restrictions placed upon supply of Water to The Nation shall be determined by the same method to that used for restricting supply to the City's inhabitants and other direct service customers; employing in every such case a pro-rata reduction.
3. In the event that The City is determined to be the proponent of an improvement specified in Column B – Infrastructure Description of **Schedule C** hereto to the Joint Water System, then The City agrees to design, construct and perform such works, the costs of which will be shared between the Parties pursuant to Column D – Cost Share (%) of **Schedule C** hereto.
4. The design work, installation and construction supervision for the Joint Water System shall be performed by competent professional engineers licensed to practice in the Province of Ontario, in accordance with standard design practices at the date of approval.
5. The City agrees that the Water it provides pursuant to this Agreement will meet the minimum requirements for Pressure and Quality specified at **Schedule D** hereto and shall meet or exceed the *Ontario Drinking Water Quality Standards* as amended.

6. The Nation agrees that it or its duly appointed nominee shall be the designated operating authority for the Joint Water System located with The Nation's jurisdiction
7. The City shall provide *Ontario Drinking Water Quality* reports (or such successor reports as are prescribed by applicable Federal or Provincial legislation from time to time) to The Nation upon request.
8. The City shall be responsible for maintaining, repairing and operating that portion of the Joint Water System within the geographical limits of the City as further specified at **Schedule A** hereto. The Nation shall have the right to participate in The City's inspections to ensure that the Joint Water System has been properly maintained or constructed as the case may be in accordance with the approved design.
9. The Nation may request that The City consider increased estimated Water demand forecasts beyond The Nation's Thirty (30) Year Maximum Day Demand and Thirty (30) Year Average Day Demand projections and in that circumstance the City would negotiate the terms of such increased supply in good faith.
10. The City shall immediately notify The Nation of any malfunction to the flow measuring system(s) for which it is responsible, such notice to be given in accordance with the notice sections in this Agreement.
11. The City shall immediately notify The Nation of any reports of adverse Water Quality in the Joint Water System within its geographical limits that will affect the supply of Water to the Joint Water System, such notice to be given in accordance with the notice sections in this Agreement.
12. The City shall have the option to review the completed design of the Joint Water System to be constructed within the Nation's boundary.

7. THE NATION'S OBLIGATIONS

1. The Nation agrees to pay The City the sum of \$2,620,000 for the use of The City's existing Water infrastructure as part of the Joint Water System, which payment will be due when the Cheney and Limoges Transmission Line delivers Water to the water treatment and distribution facility of Limoges.
2. The Nation agrees to purchase a minimum of 350 m³ Water per day, it being understood that such obligation is based on an Average Day Demand and subject always to The City's obligations in respect of the supply of Water specified in this Agreement.
3. In the event that the Nation is determined to be the proponent of an improvement specified in Column B – Infrastructure Description of **Schedule C** hereto to the Joint

Water System, then The Nation agrees to design, construct and perform such works, the costs of which will be shared between the Parties in accordance with the percentage allocation specified in Column D – Cost Share (%) at **Schedule C** hereto.

4. The design work, installation and construction supervision for the Joint Water System shall be performed by competent professional engineers licensed to practice in the Province of Ontario, in accordance with standard design practices at the date of approval.
5. The Nation agrees that it or its duly appointed nominee shall be the designated operating authority for the Joint Water System located with The Nation's jurisdiction.
6. The Nation shall have the right to request that The City consider increased estimated Water demand forecasts beyond The Nation's Thirty (30) Year Maximum Day Demand and Thirty (30) Year Average Day Demand projections and in that circumstance the Parties would negotiate the terms of such increased supply in good faith.
7. The Nation shall be responsible for maintaining, repairing and operating the Joint Metering Station within its jurisdiction including calibration of the flow meter to manufacturer's recommendations.
8. The Nation shall provide The City, during the term of this Agreement and any extension thereof, with an unrestricted right of access to the Joint Metering Station at any time as determined by The City at its sole discretion for the purposes of inspection and Water sampling.
9. The Nation shall obtain The City's approval of the design for that portion of the Joint Water System within The City's boundary and such approval shall be based upon the advice of competent professional engineers licensed to practice in the Province of Ontario, in accordance with the standard design practices and the City design standards at the date of approval.

8. REPRESENTATIONS AND WARRANTIES OF THE CITY

1. The City hereby represents and warrants as follows:

- a) that it has full right, power and authority to enter into and carry out this Agreement and has been and is on the date of this Agreement duly authorized by all necessary and appropriate corporate, corporate by-law or other action to execute this Agreement;

- b) that it has no prior commitments, arrangements or agreements with any other person or corporation which might interfere with, or preclude the carrying out of its obligations under this Agreement;
- c) that it has the capacity to provide The Nation with the Average Day Demand Quantity, Quality and Pressure of Water specified by the terms of this Agreement;
- d) that as at the date of this Agreement that it is using no more than sixty-five percent (65%) of its Water capacity and The City acknowledges and agrees that the design and construction of its existing water system will be able to meet the Water demand forecasts specified at **Schedule C** hereto; and
- e) that it has the capacity to provide 350 m³ Water per day to The Nation through the Joint Water System for the term of this Agreement and any renewals hereof.

9. REPRESENTATIONS AND WARRANTIES OF THE NATION

1. The Nation hereby represents and warrants as follows:

- a) that it has full right, power and authority to enter into this Agreement and has been and is on the date of this Agreement duly authorized by all necessary and appropriate corporate, corporate by-law or other action to execute this Agreement; and
- b) with the exception of an existing water supply agreement with The Corporation of the Township of Russell, that it has no prior commitments, arrangements or agreements with any other person or corporation which might interfere with, or preclude the carrying out of its obligations under this Agreement.

10. TERMINATION OF AGREEMENT

1. Termination of Agreement

- a) Termination For Cause. Each party shall have the right to terminate this Agreement “for cause”, as defined at subsection 10.1. b) below, by providing written notice of termination to the other party subject to the defaulting party’s right to cure. Such notice shall specify the date and time, the specific provision of this Agreement or "for cause" reason that gives rise to the termination, and shall specify reasonable appropriate action that can be taken by the defaulting party to avoid termination of the Agreement. The non-defaulting party shall provide a

period of at least ninety (90) calendar days for the defaulting party to cure the breaches and deficiencies outlined in the notice of default under this Agreement. The Parties agree that the notice of termination “for cause” shall be delivered in accordance with section 15 of this Agreement with additional written notice delivered to the Management Committee and to the council of the Municipal Corporation of the party in default.

- b) **Definition of “For Cause”**. For purposes of this Agreement, the phrase "for cause" shall mean:
- (i) Any material breach or evasion by one party of the terms or conditions of this Agreement and its amendments, if any, which have not been cured within ninety (90) calendar days of the date of the receipt of notice.
 - (ii) Substantial cessation of services not by reason of an Uncontrollable Circumstance.
 - (iii) Fraud, misappropriation, embezzlement, malfeasance, significant misfeasance or illegal conduct by one party, its officers or directors in respect of this Agreement or the Joint Water System.

11. **GENERAL PROVISIONS**

1. The City acknowledges that The Nation must each secure funding and financial support from multiple levels of government in order to proceed with the installation and construction of the Joint Water System and that in the event that such funding and financial support is not provided by government that The Nation will not be in a position to carry out their respective obligations under this Agreement.
2. The Parties agree to notify the each other regarding any proposed amendments to their respective Zoning By Law or to the Official Plan in the areas serviced by the Joint Water System and further agree to notify the other regarding any proposed Plan of Subdivision in such areas.
3. The City shall have the right to schedule periodic temporary shutdowns of the City’s Water supply system to The Nation for required scheduled maintenance, repair and alteration, not to exceed in any event twelve (12) hours, pursuant to the following terms:

- a) The City consults with The Nation and establishes a schedule to the greatest extent possible that coincides with temporary periodic shutdowns by The Nation so as to minimize disruption of operations; and
 - b) The City and The Nation establish a mutually agreed upon protocol with respect to the procedures leading up to temporary shutdown, during temporary shutdown, and during the resumption of regular operations.
4. The City acknowledges and agrees that the Water supplied to The Nation through the Joint Water System is supplied without restriction of any kind as to the use to be made of such Water by or within The Nation.
 5. The City and the Nation shall negotiate in good faith with regards to any expansion of the Joint Water System including expansion for the purpose of supplying neighbouring villages, municipalities and townships with Water.

12. UNCONTROLLABLE CIRCUMSTANCE

1. An Uncontrollable Circumstance (as defined) means any event or condition causing interruption of service or reduction in capacity of the Joint Water System which is beyond the reasonable control of or could not reasonably be anticipated by The City or The Nation, and is being relied upon as justification for a delay in or non-performance of any obligation of The City or The Nation pursuant to this Agreement and shall include but not be limited to the events described in paragraph 12.2;
2. An Uncontrollable Circumstance means: Landslide, subsidence, sink hole, watermain break that is not caused by neglect or poor maintenance by party responsible for the maintenance of such watermain, ice storm, hurricane, tornado, sabotage other than sabotage by employees or agents of the party responsible for such employee or agent, insurrection, civil disorders, wars, acts of enemies, terrorism, epidemic, pandemic or quarantine, nuclear, chemical or biological contamination, earthquake, fires, explosions, lightning, floods, riots, any blockade or embargo, any official or unofficial strike, lock-out, work-to-rule or other dispute affecting the installation, operation or maintenance of the Joint Water System or access thereto, acts of God, or any governmental authority or any injunction or restraining order or other decision or order of a court which prohibits or restrains the construction, installation, maintenance, repair or operation of the Joint Water System or access thereto loss or inability to obtain service from any utility (such as a power utility), which service is needed to operate the Joint Water System. Upon the occurrence of any of the aforesaid uncontrollable circumstances, the time for performance of the party's relevant obligations will be deemed to be extended by a period equal to the delay caused by such event. Provided, however, that a failure by a party to perform its obligations under this Agreement arising from or related to such party's insufficient cash flow or

its economic or financial condition generally, shall not constitute an Uncontrollable Circumstance.

3. In the event there is an Uncontrollable Circumstance, and if a party seeks to rely on the occurrence of such Uncontrollable Circumstance as grounds for not performing its obligations under this Agreement, then the party relying on such Uncontrollable Circumstance shall:
 - a) provide prompt notice to the other parties of the occurrence of the Uncontrollable Circumstances in accordance with subsection 15.15 of this Agreement as soon as reasonably practicable after the party first knew of such occurrence and give a description of such Uncontrollable Circumstance and an estimation of its expected duration and the probable impact on the performance of its obligations hereunder;
 - b) exercise all reasonable efforts to continue to perform its obligations hereunder;
 - c) in accordance with this Agreement, as expeditiously as reasonably practicable take action to correct or cure the act, event or condition preventing such performance;
 - d) exercise all reasonable efforts to mitigate or limit damages to the other parties; and
 - e) provide prompt notice in accordance with subsection 15.15 of this Agreement to the other party of the cessation of the act, event or condition giving rise to the Uncontrollable Circumstance.

Except as expressly provided under the terms of this Agreement, none of the Parties to this Agreement shall be liable to the other or others for any loss, damage, delay, default, or failure to perform any obligation to the extent it results from an Uncontrollable Circumstance. The occurrence of an Uncontrollable Circumstance shall not excuse or delay the performance of a party's obligation to pay monies previously accrued and owing under this Agreement, or to perform any obligation hereunder not affected by the occurrence of the Uncontrollable Circumstance.

13. LIABILITY ISSUES

1. Each party shall be individually liable for the operation and maintenance work or services it has performed in respect of the Joint Water System and for any liability arising therefrom, including any physical damage caused to the property of a third party, bodily injury suffered and any other damage caused by the party provided that neither party shall be held responsible for any Losses, whether direct Losses or indirect Losses, resulting if the fulfillment of any of the terms or provisions hereof shall be delayed or prevented by Uncontrollable Circumstance.

2. Each party hereby undertakes to indemnify and hold the other party and its municipal councillors, directors, officers, employees or agents harmless from and against any and all Loss or Losses that they or any of them may sustain or incur resulting from any claim or lawsuit related to the operation and maintenance work or services such party has performed in respect of the operation and maintenance work on services.
3. The party seeking indemnification (the “**Indemnified Party**”) shall (i) give the other party (the “**Indemnifying Party**”) written notice of the claim within a reasonable time, (ii) cooperate with the Indemnifying Party, at the Indemnifying Party’s expense, in the defence of such claim, and (iii) give the Indemnifying Party, at its cost, the right to control the defence and settlement of any such claim, provided, however, that the Indemnifying Party shall not enter into any settlement that affects the Indemnified Party’s rights or interests without the Indemnified Party’s prior written approval, such approval not to be unreasonably withheld, conditioned or delayed.

14. **INSURANCE**

1. Each party shall maintain the following insurance throughout this Agreement:
 - a) Municipal Liability Insurance issued on an occurrence basis for an amount of not less than \$5,000,000.00 per occurrence / \$5,000,000.00 annual aggregate for any negligent acts or omissions relating to the insured party’s (the “Named Insured”) obligations under this Agreement. Such insurance shall include but is not limited to bodily injury and property damage including loss of use; personal injury; contractual liability; premises, property & operations; non-owned automobile; broad form property damage; owners & contractors protective; occurrence property damage; products; broad form completed operations; employees as additional insured(s)); contingent employer’s liability; tenant’s legal liability; cross liability and severability of interest clause. Such insurance shall add the party other than the Named Insured as additional insured with respect to the operations of the Named Insured. This insurance shall be non-contributing with and apply as primary and not as excess of any insurance available to the additional insured.
 - b) Automobile liability insurance with respect to owned or leased vehicles used directly or indirectly in the performance of the services covering liability for bodily injury, death and damage to property with a limit of not less than \$5,000,000 inclusive for each and every loss.
 - c) Professional Liability insurance covering the work and services described in this Agreement for an amount not less than \$5,000,000 per claim. If such insurance is issued on a claims made basis, coverage shall be maintained for a period of two years subsequent to conclusion of services provided under this Agreement or contain a 24 month extended reporting period.

- d) Environmental Liability with a limit of not less than \$2,000,000.00 per Incident /\$4,000,000.00 Annual Aggregate. Coverage shall include Third Party Bodily Injury and Property Damage including restoration cost. If such insurance is issued on a claims made basis, coverage shall contain a 24-month extended reporting period or be maintained for a period of two years subsequent to conclusion of services provided under this Agreement.
- e) Each party shall provide evidence of WSIB registration or its equivalent to the other party on demand.
- f) Any and all deductibles applicable to the above noted insurance shall be the sole responsibility of the Named Insured and the additional insured shall bear no cost towards such deductible of the Named Insured.
- g) Each party is responsible to keep their property and assets insured in accordance with the terms of this Agreement provided that a party's failure to do so shall not impose any liability on the other party.
- h) The Named Insured shall provide the additional insured with a certificate of insurance and the parties further agree that the policies of insurance required pursuant to the terms of this Agreement shall not be cancelled, materially changed or lapsed unless the insurer notifies the additional insured in writing at least thirty (30) days prior to the effective date of the cancellation.
- i) The insurance policies specified herein this Agreement shall be in a form and with a company licensed to carry on business in Ontario which are, in all respects, acceptable to the both parties.

15. GENERAL CONDITIONS

1. Applicable Law

This Agreement and its interpretation shall be governed by the laws of the Province of Ontario.

2. No Partnership

The rights and obligations of the City and The Nation shall be in every case several and not joint or joint and several. Nothing contained in this Agreement shall be deemed to constitute the City or The Nation as the partner, agent or legal representative of the other party, or to create any fiduciary relationship between the City and The Nation hereto for any purpose whatsoever. Neither of the City nor The Nation shall have any authority to act for or to assume any obligation or responsibility on behalf of any other party.

3. **Condonation**

Any condonation or failure by one party to enforce the rights and remedies available to it under this Agreement arising from a failure by the other party to observe or perform any provision of this Agreement shall not be deemed to be a waiver of the first party's rights hereunder nor shall such failure or condonation preclude one party from enforcing the rights and remedies available to it hereunder against the other party for any subsequent breach or non performance.

4. **Agreement To Survive Termination**

The covenants contained in this Agreement, which by their terms, require performance by the parties after the expiration or termination of this Agreement, shall be enforceable notwithstanding the said expiration or other termination of this Agreement for any reason whatsoever. All of the provisions in this Agreement which expressly or by implication are for the benefit of the parties after the date of expiration or termination ("**Date of Termination**") will survive the Date of Termination and continue in force.

5. **Time Is Of The Essence**

Time is of the essence for all terms and provisions in this Agreement.

6. **Amendments**

No amendment or supplement of any provision of this Agreement is binding unless in writing and signed by each party to this Agreement at the time of such amendment or supplement.

7. **Headings**

The headings and captions appearing in this Agreement have been inserted for convenience of reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision hereof.

8. **Amendments**

No amendment to this Agreement shall be effective unless in writing and signed by all Parties to this Agreement.

9. Entire Agreement

This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all previous or contemporaneous communications, representations or agreements. No oral agreement or conversation with any officer, agent or employee of the City or The Nation, either before or after the execution of this Agreement, shall affect or modify any of its terms or obligations herein contained.

10. Enurement and Assignment

This Agreement shall enure to the benefit of the Parties and be binding upon their respective successors and assigns.

11. Survival

Wherever this Agreement contains an express obligation by one or more Parties to indemnify any other party, such obligation to indemnify shall survive the completion or termination of this Agreement and continue in full force and effect.

12. Severability

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

13. Waiver

The failure on the part of a party to enforce its rights as to any provision of this Agreement shall not be construed as a waiver of its rights to enforce such provision in the future.

14. Schedules

Schedules to this Agreement form an integral part of the Agreement and a reference to this Agreement shall be construed as a reference to the Schedules to this Agreement.

15. Notices

- a. Delivery Mode and Address

Any notice required to be or may be given or made by one of the Parties hereto to the other, it shall be in writing and shall be delivered in person, transmitted by facsimile or similar means of recorded electronic communication, including e-mail, or sent by ordinary or registered mail to the respective addresses of the Parties hereto:

- i. If to The City: The Corporation of the City of Clarence-Rockland
1560 Laurier Street
Rockland, ON
K4K 1P7
Attention: Clerk and Director

Fax: 613-446-1497

- ii. If to The Nation:

The Corporation of the Nation Municipality
958 Route 500 West
Casselman, ON
K0A 1M0
Attention: Clerk and Director

Fax: 613-764-3310

- b. Time of Delivery

Any such notice shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a Business Day, on the next following Business Day), or if mailed, on the third Business Day following the date of mailing; provided, however, that if at the time of mailing or within three Business Days thereafter (or in the case of e-mail) there is or occurs a labour dispute or other events which might reasonably be expected to disrupt the delivery of document by mail or e-mail as the case may be, any notice hereunder shall be delivered or transmitted by means of other recorded electronic communications as aforesaid that are not so disrupted.

- c) Time Sensitive Reports and Notifications

- i. If to The City:

Email:
Telephone:
Fax:

- ii. If to The Nation:
Email:
Telephone:
Fax:

The CAO/Clerk with a copy to the Director of Joint Water System

Email:
Telephone:
Fax:

16. Performance to Continue During Dispute

Performance of this Agreement shall continue during arbitration proceedings or any referral to alternative dispute resolution mechanisms.

17. Limitations on Damages

No party is liable for, or may recover from any other party, special, indirect or consequential damages or incidental damages, including but not limited to, lost profits or revenue.

18. Counterparts

This Agreement may be executed in several counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same instrument.

19. Further Assurances

Each of the parties hereto will from time to time at the other's request and expense and without further consideration, execute and deliver such other instruments of transfer, conveyance and assignment and take such further action as the other may require to more effectively complete any matter provided for herein.

16. ARBITRATION

1. All matters in dispute arising from this Agreement that cannot be resolved by the Parties shall be finally settled by arbitration in accordance with Schedule "G" hereto and the provisions of the *Arbitration Act* 1991, S.O. 1991, c.17 as amended.

IN WITNESS whereof the Parties have affixed their respective corporate seals, attested by the hands of their respected officers duly authorized in that behalf.

**THE COPORATION OF THE
NATION MUNICIPALITY**

**THE CORPORATION OF THE
CITY OF CLARENCE-
ROCKLAND**

Mayor

Mayor

Clerk

Clerk/CAO

Schedule A

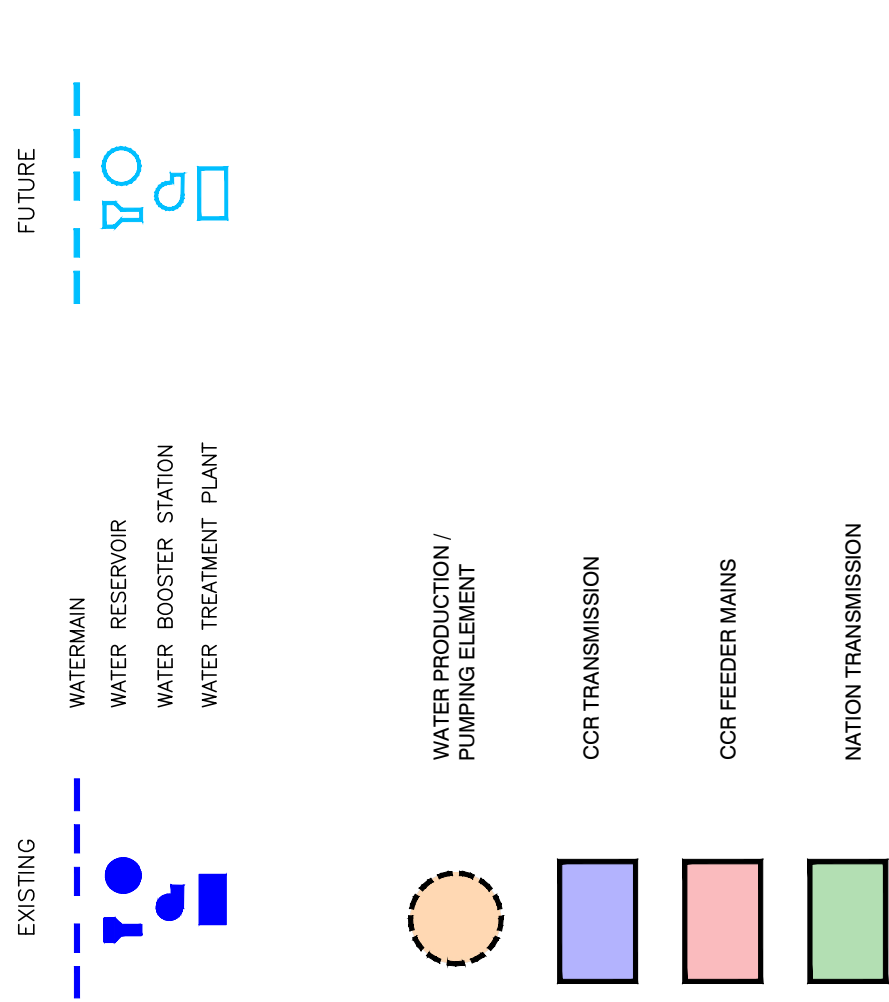
Proposed Location Map - Joint Water System

NOTES

1. DO NOT SCALE DRAWINGS; ONLY FIGURED DIMENSIONS ARE TO BE USED. WHERE DOUBT EXISTS, PLEASE REQUEST FOR INTERPRETATION AND REQUEST CLARITY ON SITE. REPORT DISCREPANCIES TO THE ARCHITECT PROMPTLY.
2. ALL DIMENSIONS ARE TO BE GIVEN IN METERS UNLESS OTHERWISE SPECIFIED. GENERAL CONTRACTOR TO TAKE INTO ACCOUNT CONSTRUCTION TOLERANCE; COMPLY WITH DESIGN INTENT.
3. DRAWINGS AND SPECIFICATIONS ARE COMPLEMENTARY AND ARE TO BE READ TOGETHER.

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LEGEND

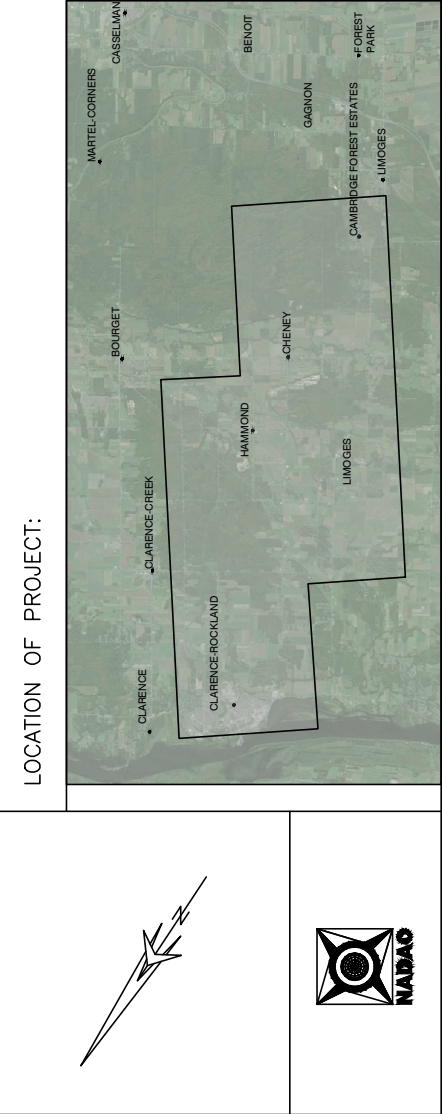


REV. No.	DATE	NATURE	BY
1	2017/02/24	PRELIMINARY	M-O GRATTON
2	2017/03/10	PRELIMINARY	M-O GRATTON
3	2017/03/14	PRELIMINARY	M-O GRATTON
4	2018/06/18	PRELIMINARY	M-O GRATTON
5	2018/11/28	NGU (DRAFT FOR REVIEW)	M-O GRATTON

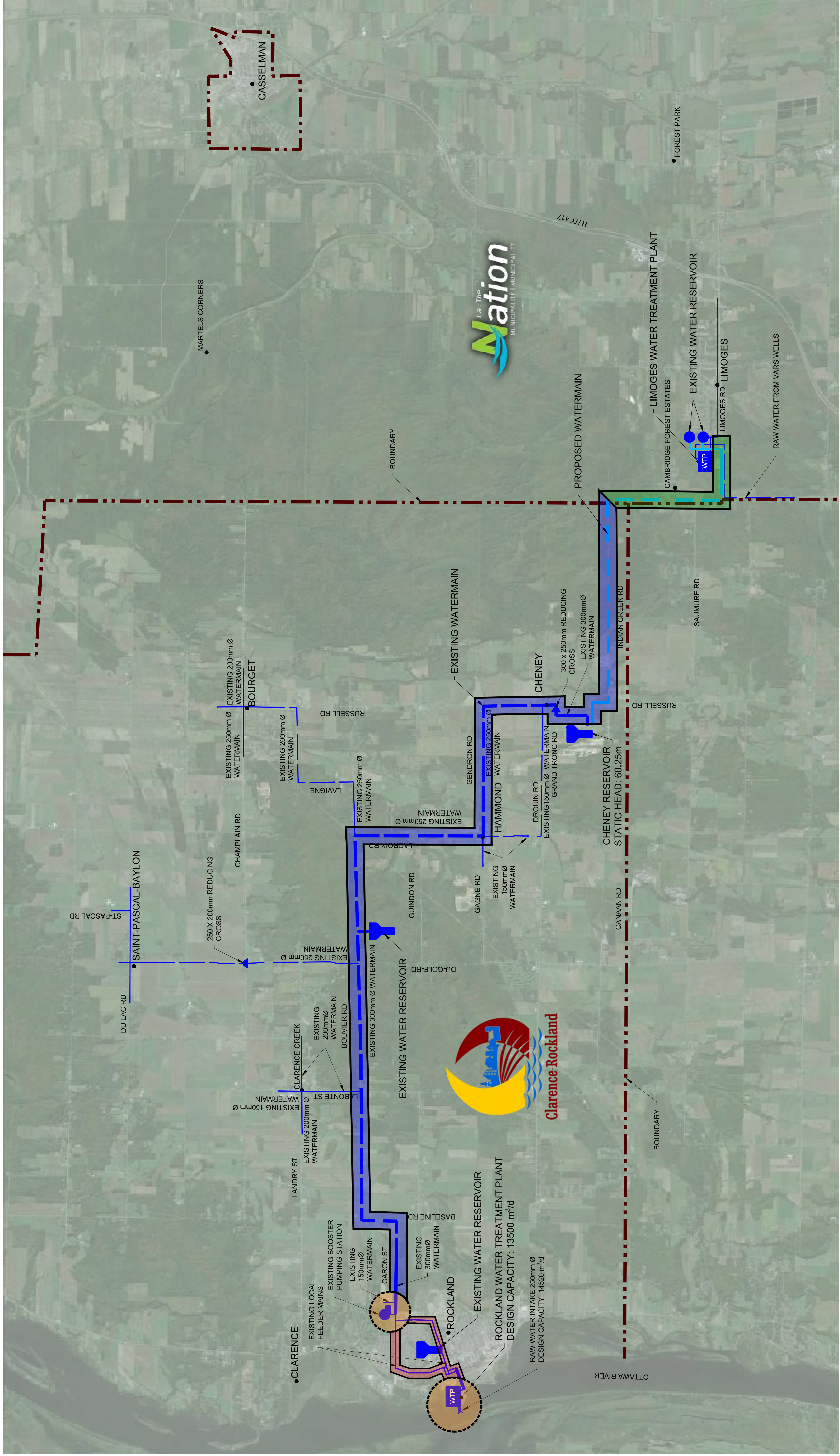


PROJECT: CCR / NATION JOINT WATER SUPPLY

DRAWING: JOINT WATER SYSTEM LAYOUT



SURVEYED:	CONCEPTION :	P.MAGUIRE, Ing.
DRAWN:	REVIEWED :	P.MAGUIRE, Ing.
DATE :	SCALE :	NRS 1:40000
CONTRACT No. :	PLAN No. :	C01



Schedule B

Allocated Capacity

(A) Infrastructure Recommendation Description	(B) Allocated Demand (MDD) (m3/d)		(C) Capacity Allocation (%)	
	CCR	Limoges	CCR	Limoges
New transmission main – Cheney ET to Limoges	313	6,257	5%	95%
Caron BS Upgrades	7,168	6,994	51%	49%
New transmission main – Caron BS to Bouvier Rd. and Labonte St.	4,265	6,987	38%	62%
New transmission main – Bouvier Rd. and Labonte St. to Bouvier ET	4,265	6,987	38%	62%
Rockland WTP Upgrades	13,087	6,798	66%	34%
Feeder watermains from WTP to Caron BS - Edwards St, Wallace St, McCall St, Poulliotte St, Gareau St, Laurier St, St- Joseph St, Docteur Corbeil Blvd, Caron St	(see note 1)	(see note 1)	69%	31%
New Bouvier BS	2,047	6,992	23%	77%
New transmission main – Bouvier BS to Cheney ET	313	6,257	5%	95%

- Note 1: The feeder watermains of the Joint Water System were selected based on the main conveyance path identified in Ch2m report.

Schedule C

Cost Sharing and Implementation

Summary of Recommended Infrastructure Cost Sharing and Implementation – Aggressive Cost Estimate (joint system)

	(B) Infrastructure Description	(C) Water demand Trigger (ADD) (m3/d)		(D) Cost Share (%)		(E) Total (\$ M)	(F) Cost Share (\$)	
		CCR	Limoges	CCR	Limoges		CCR	Limoges
2019-2020	Existing infrastructure	-	350	0	100	\$2.62	0	\$2.62
2019-2020	New Watermain – Cheney ET to Limoges	-	350	5%	95%	\$10.28	\$0.49	\$9.79
2019-2020	New Watermain – St. Jean St: Patricia St. to Docteur Corbeil Blvd.	-	350	58%	42%	\$0.40	\$0.23	\$0.17
						\$13.30	\$0.72	\$12.58
2024-2025	Caron BS Upgrades	5631	1000	51%	49%	\$2.18	\$1.11	\$1.07
2024-2025	New Watermain – Caron St: Docteur Corbeil Blvd. to the Caron BS	5631	1000	51%	49%	\$0.17	\$0.09	\$0.08
2024-2025	Rockland WTP Upgrades	5631	1000	66%	34%	\$14.97	\$9.85	\$5.12
						\$17.32	\$11.05	\$6.27
2030-2031	Replace Watermain – St. Joseph St: Patricia St. to Des Pins Ave.	6518	1500	55%	45%	\$0.14	\$0.08	\$0.06
2030-2031	New Watermain – Bouvier BS to Cheney ET	6518	1500	5%	95%	\$9.25	\$0.44	\$8.81
2030-2031	Replace Watermain – Edwards St: Rockland WTP to Highway 17 (east side pipe)	6518	1500	77%	23%	\$0.45	\$0.35	\$0.10
						\$9.84	\$0.87	\$8.97
2035-2036	New Watermain – Caron BS to Bouvier Rd. and Labonte St.	7259	2500	38%	62%	\$5.17	\$1.96	\$3.21
2035-2036	Replace Watermain – Edwards St: Highway 17 (east side pipe) to McCall St.	7259	2500	64%	36%	\$0.34	\$0.21	\$0.13
2035-2036	New Watermain – Bouvier Rd. and Labonte St. to Bouvier ET	7259	2500	38%	62%	\$2.97	\$1.13	\$1.84
2035-2036	New Bouvier BS	7259	2500	23%	77%	\$3.17	\$0.72	\$2.45
						\$11.65	\$4.02	\$7.63

Schedule D

Pressure and Quality

1. Pressure

1. The City agrees:
 - a. to maintain an average minimum Water pressure of 385 kPA at the Joint Metering Station at all times (the “**Minimum Pressure**”), except in the event of Uncontrollable Circumstance; and
 - b. to maintain a Water pressure not to exceed 620 kPA at the Joint Metering Station at all times (the “**Maximum Pressure**”), except in the event of an Uncontrollable Circumstance.
2. The Minimum Pressure and/or Maximum Pressure shall be measured at the Joint Metering Station.

2. Quality

1. The City agrees to maintain a minimum of 1.0 mg/L of combined chlorine residual as measured at the Joint Metering Station.

Schedule E

Invoicing

The measure of the totalized volume delivered as at the Joint Metering Station (located within The Nation Municipality) over the Billing Period;

Details of any issues with the SCADA flow data;

Any estimated volume of Water for the purposes of determining the Estimated Charge;

The amount payable by The Nation pursuant to the Bulk Rate; and

Any other items that the Parties may mutually agree.

Schedule F

Operating Costs

Operating Costs shall be determined by reference to the following costs and expenses:

Chlorine

Building Repair

Maintenance including maintenance of booster stations located at _____ in map of Joint Water System

Labour plus benefits of employment

Electricity, propane and natural gas

Expenses of third-party service providers

Professional costs of auditors

Insurance

Water Treatment - General Operation costs and expenses including:

1. Ensure that daily operations comply with and fulfill the requirements of Environmental Laws;
2. Act as Accredited Operating Authority with all Regulatory agencies;
3. Monitor SCADA and Outpost 5 or other tools in place for plant operations, process control and after-hours emergencies;
4. Monitor plant raw water at the beginning of each day and report problems;
5. Inspect process control equipment to ensure proper operation of the two (2) Actiflo units, UV reactors, chemical feed systems (primary disinfection, coagulation, flocculation and chloramination), sedimentation and filtration systems, on line monitoring and standby power;
6. Check filters and backwashing on a routine basis;

7. Check chlorine residual analyzers and turbidity analyzers;
8. Mix, monitor and adjust process chemicals to ensure adequate treatment;
9. Record and analyze water flow, electricity used, chemicals used, chlorine residuals, turbidity and other process readings as required;
10. Routinely conduct water sampling/testing in accordance with Environmental Laws, including the facility's Municipal Drinking Water Licence(s);
11. Complete internal operational data forms for statistical input into a reporting system;
12. Calibrate equipment in accordance with the water treatment facilities Municipal Drinking Water Licence(s);
13. Check low lift pumps and pumping station daily and take routine readings;
14. Check high lift pumps on a routine basis;
15. Monitor water towers;
16. Undertake and evaluate performance tests weekly;
17. Act as Accredited Operating Authority in dealing with water quality issues and MOE compliance inspections during water inspections;
18. Provide on-call 24/7 certification services and function as first contact for water breaks, repairs and complaints, with Client resources having the option of acting as first contactor to complete repairs under the Cities direction;
19. Inspect equipment at booster stations, towers, stand pipes and reservoirs, chloramination facilities, sampling stations to ensure proper operation of disinfection system, pumps, chemical systems, on line monitors and standby power;
20. Complete Unidirectional Flushing annually;
21. Exercise main distribution shut-off valves on a progressive schedule;
22. Management of leak detection program;
23. Routinely conduct water sampling/testing in accordance with Environmental Laws, including any applicable Certificate of Approval(s);

24. Monitor clear well storage reservoir and booster station operations and system pressures;
25. Arrange for and oversee inspections of pressure release valves as required;
26. Manage the issuance of Boil Water Advisories and precautionary Boil Water Advisories on behalf of the Client as required;
27. Complete internal operational data forms for statistical input into a reporting system;
28. Calibrate equipment in accordance with any applicable Certificate of Approval(s).

Schedule G

Arbitration Clause

1. The Parties will try to resolve any difference or dispute between them on any matter in this Agreement by negotiation between themselves personally or by their lawyers.
2. If the difference or dispute arising between the Parties from time to time in relation to the interpretation of this Agreement or to any act or omission of any party to the dispute or in relation to any other matter whatsoever touching the terms and conditions of this Agreement cannot be resolved by the process referred to in paragraph 1 above, either Party may give written notice of thirty (30) calendar days to the other. Upon any such notice being given, the Parties shall, within five (5) working days thereafter, agree upon an arbitrator. In the absence of agreement within the aforesaid five (5) working day period, any Party may apply to a Judge of the Ontario Superior Court of Justice in Ottawa, Ontario, to appoint same. The arbitrator shall have jurisdiction to determine the costs of the arbitration. The costs of the arbitration shall consist of the Parties' legal expenses, the fees and expenses of the arbitrator and any other expenses relating to the arbitration. No default shall be deemed to have been incurred until the decision of the arbitrator has been rendered and the Parties shall continue to perform their obligations, to the extent reasonably practicable, under this Agreement.
3. Any provisional remedy, which would be available from a court of law, shall be available to the arbitrator, pending arbitration.
4. Either Party may make an application to the arbitrator seeking injunctive relief until such time as the arbitration award is rendered or the controversy is otherwise resolved.
5. Either Party may seek from a court any interim or provisional remedy that may be necessary to protect the rights or property of that Party, pending the establishment of an arbitrator or pending the arbitrator's determination of the merits of the controversy or until the controversy is otherwise resolved.
6. The Parties shall allow and participate in oral and documentary discovery in accordance with the *Rules of Civil Procedure* of Ontario. All issues regarding the parties' compliance with examination of discovery requests and the conduct of examinations for discovery, shall be decided by the arbitrator.

7. The arbitration decision/award shall be in writing and shall specify the findings of fact and the legal basis for the decision/award.

8. Either Party may appeal the arbitrator's decision/award to a court of competent jurisdiction, within thirty (30) days of the decision/award being made, on one of the following grounds:
 - (a) any ground or grounds specified in the *Arbitration Act*, S.O. 1991, C.17;

 - (a) the award contains material errors of law;

 - (b) the award contains material errors of mixed fact and law; or

 - (c) the decision/award is arbitrary or capricious.

Schedule H

Management Committee Terms of Reference

TERMS OF REFERENCE FOR THE ESTABLISHMENT OF A MANAGEMENT COMMITTEE FOR THE CLARENCE-ROCKLAND/NATION JOINT WATER SYSTEM

BE IT ENACTED by The Corporation of the City of Clarence-Rockland and The Corporation of the Nation Municipality:

1. Definitions

In these terms of reference for the establishment of the Management Committee (as defined below), unless the context otherwise requires:

“**Municipal Act**” means the *Municipal Act*, 2001, S.O. 2001, c. 25 including the regulations made pursuant to that *Act*, and any statute or regulations that are applicable to municipal corporations or local boards as may be substituted, as amended from time to time;

“**Member**” means a member of the Management Committee and “**Members**” means the members of the Management Committee;

“**Management Committee**” means the management committee for the Clarence-Rockland/Nation Joint Water System;

“**Municipal Corporation**” means either of The Corporation of the City of Clarence-Rockland or The Corporation of the Nation Municipality, as the case may be and “**Municipal Corporations**” means both of The Corporation of the City of Clarence-Rockland and The Corporation of the Nation Municipality;

2. Interpretation

Words and expressions defined in the Joint Water System Agreement entered into between the Municipal Corporations shall have the same meanings when used in these terms of reference.

3. Clarence/Rockland/Nation Joint Water System Management Committee established

A Management Committee for the Clarence-Rockland/Nation Joint Water System shall be established local board of the Municipal Corporations. The Municipal Corporations have resolved to co-operate and co-ordinate their efforts in the operation and

management of the Joint Water System and the Management Committee shall provide the Municipal Corporations with recommendations for the regulation, use and management of the Joint Water System.

4. Membership, Appointment and Term

1. The Management Committee shall be composed of six (6) Members including an alternating chairperson of the Management Committee. Members Committee shall be appointed as follows:
 - a) three (3) Members shall be appointed by The Corporation of the City of Clarence-Rockland;
 - b) three (3) Members shall be appointed by The Corporation of the Nation Municipality;
 - c) the rotating chairperson, who shall be a Member, shall be appointed by the Members following consultation among the Members and the councils of both Municipal Corporations.
2. Subject always to section 5, each Member shall be appointed for a four (4) year term. Eligibility for the reappointment of a Member shall be determined by the municipality who originally appointed the Member.
3. Additional Members may be appointed from time to time in the same manner and ratio as set out in this section 4. Any such Member may be appointed for a specific purpose, on such conditions or for such term as determined by the Members of the Management Committee.

5. Membership Conditions

1. A Member may be removed at any time by the Municipal Corporation that appointed such Member. The chairperson, to the extent one was appointed, may only be removed by the Municipal Corporation that appointed such chairperson.
2. Where a vacancy occurs in respect of a Member appointed by The Corporation of the City of Clarence-Rockland, the replacement Member shall be nominated or appointed for the remainder of the term by The Corporation of The City of Clarence-Rockland only.
3. Where a vacancy occurs in respect of a Member appointed by The Corporation of the Nation Municipality, the replacement Member shall be nominated or appointed for the remainder of the term by The Corporation of the Nation Municipality only.

4. All Members including the chairperson and any replacement Members shall perform their duties in accordance with laws relating to conflict of interest, protection of information and a code of conduct.

6. Administration of the Management Committee

Members shall perform their duties and devote such efforts, as workload and responsibilities dictate and shall receive such remuneration and as determined by the Municipal Corporations. Reasonable travelling expenses shall be reimbursed.

7. Meetings of Members

1. The Management Committee shall meet on an alternating basis in either the City of Clarence-Rockland or the Nation Municipality;
2. Regular meetings of the Management Committee shall be hosted on an alternating basis in either the City of Clarence Rockland or the Nation Municipality.
3. The chairperson, if appointed, or the Management Committee if no chairperson is appointed shall call a special meeting of Members on written requisition of not less than three (3) Members. If a special meeting is not called within five (5) days of receiving the requisition, any Member who signed the requisition may call the special meeting.
4. Subject always to the requirements and conditions established by these terms of reference, the Management Committee shall have the authority to establish its own by-laws and rules of procedure for the conduct of annual meetings, regular meetings and special meetings.
5. The first organization meeting of the Management Committee may be called by any Member and shall be called within sixty (60) days of the Commencement Date.

8. Participation by Electronic Means at Members' Meetings

If the Management Committee chooses to make available a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during a meeting of Members, any person entitled to attend such meeting may participate in the meeting by means of such telephonic, electronic or other communication facility in the manner provided by the Act. A person participating in a meeting by such means is deemed to be present at the meeting.

9. Persons Entitled to be Present at Members' Meetings

The only persons entitled to be present at a meeting of Members shall be the duly appointed Members and such other persons who are entitled or required under any provision of the Act or by-laws of the Management Committee to be present at the meeting. Any other person may be admitted only on the invitation of the chairperson of the meeting, to the extent one has been appointed or is present or by resolution of no less than three (3) Members.

10. Quorum at Members' Meetings

A quorum at any meeting of the Members of the Management Committee shall be four (4) duly appointed or nominated Members, being two (2) from each municipality. If a quorum is present at the opening of a meeting of Members, there shall be at least 2 members from each municipality present to constitute a quorum. The Members present may proceed with the business of the meeting even if a quorum is not present throughout the meeting. If there is a tie vote and the Parties have been unable to resolve the dispute and provided that the Municipal Corporations' elected officials have been consulted and been unable to resolve the dispute within Thirty (30) days, then, either party may move pursuant to Schedule "G" for an arbitration to resolve the issue.

11. Proxies

Every Member entitled to vote at Members' Meetings may, by instrument in writing, appoint a proxy, who need not be Member, to attend and act at the meeting in the same manner, to the same extent, and with the same power as if the Member were present himself/herself at the meeting. The instrument appointing a proxy shall be in writing signed by the appointor or that person's attorney authorized in writing. The instrument appointing a proxy shall be deposited with the secretary of the meeting before any vote is cast under its authority.

12. Consensus Based Recommendations

The Management Committee shall work to achieve a consensus across its Members and make joint recommendations to the councils of each of the Municipal Corporations. Should there be a vote that is equally split between the Members and cannot be resolved, the Management committee shall refer the matter to arbitration in accordance with Schedule "G".

13. Members' Meeting Held Entirely by Electronic Means

If the Members of the Management Committee call a meeting of Members pursuant to the Act, those Members, as the case may be, may determine that the meeting shall be held, entirely by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting.

14. Notice of Regular Meeting of Management Committee

1. Notice of the time and place for the holding of a regular meeting of the Management Committee shall be given to every Member of the Management Committee not less than fourteen (14) days before the time when the meeting is to be held. Notice of a meeting shall not be necessary if all of the Members are present, and none objects to the holding of the meeting, or if those absent have waived notice of or have otherwise signified their consent to the holding of such meeting. Notice of an adjourned meeting is not required if the time and place of the adjourned meeting is announced at the original meeting. A notice of meeting shall specify the purpose or the business to be transacted at the meeting.
2. Any notice (which term includes any communication or document), other than notice of a meeting of Members or a meeting of the Management Committee, to be given (which term includes sent, delivered or served) pursuant to the Act or otherwise to a Member, officer or Member of a committee of the Management Committee or to the public accountant shall be sufficiently given:
 - i. if delivered personally to the person to whom it is to be given or if delivered to such person's address as shown in the records of the Management Committee or in the case of notice to Member to the latest address as shown in the last notice that was sent by the Management Committee;
 - ii. if mailed to such person at such person's recorded address by prepaid ordinary or air mail; or
 - iii. if sent to such person by telephonic, electronic or other communication facility at such person's recorded address for that purpose.
3. A notice so delivered shall be deemed to have been given when it is delivered personally or to the recorded address as aforesaid; a notice so mailed shall be deemed to have been given when deposited in a post office or public letter box; and a notice so sent by any means of transmitted or recorded communication shall be deemed to have been given when dispatched or delivered to the appropriate communication company or agency or its representative for dispatch. The secretary may change or cause to be changed the recorded address of any Member, officer, public accountant or Member of a committee of the Management Committee in accordance with any information believed by the secretary to be reliable. The declaration by a Member that notice has been given pursuant to these terms of reference shall be sufficient and conclusive evidence of the giving of such notice. The signature of any Member or officer of the Management Committee to any notice or other document to be given by the Management Committee may be written, stamped, type-written or printed or partly written, stamped, type-written or printed.

15. Committees of the Management Committee

The Management Committee may from time to time appoint any committee or other advisory body, as it deems necessary or appropriate for such purposes and, subject to the Act, with such powers as the Management Committee shall see fit. Any such committee may formulate its own rules of procedure, subject to such regulations or directions as the Management Committee may from time to time make. Any person appointed to a committee may be removed by resolution of the Management Committee.

16. Invalidity of any Provisions of these Terms of Reference

The invalidity or unenforceability of any provision of these terms of reference shall not affect the validity or enforceability of the remaining provisions of these terms of reference.

17. Effective Date

These terms of reference may not be amended or repealed without the express authorization of both Municipal Corporations.